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Signed at Washington, DC, this 16th Day of January 1997.

Terry Sullivan,

Chief, Branch of Construction Wage Determinations.

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Mine Safety and Health Administration

RIN 1219-AA81

Response to Recommendations of the Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Response to Advisory Committee recommendations.

SUMMARY: On November 14, 1996, the Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers (Advisory Committee) issued its report to the Secretary of Labor. The Advisory Committee identified a number of issues, developed findings, and made recommendations on how to eliminate coal workers' pneumoconiosis and silicosis. The Federal Mine Safety and Health Act of 1977 requires the Secretary of Labor to issue a public response to the Advisory Committee's recommendations. Accordingly, the Secretary, through the Mine Safety and Health Administration (MSHA), is responding in this Notice to

the recommendations contained in the Advisory Committee report.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

A. Background

The Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers (Advisory Committee) was established by the Secretary of Labor (Secretary) on January 31, 1995, in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), and the Federal Mine Safety and Health Act of 1977 (Mine Act) 30 U.S.C. 801 (1977). The Secretary charged the Advisory Committee to make recommendations for improved standards, or other appropriate actions, on permissible exposure limits to eliminate coal workers pneumoconiosis and silicosis (commonly referred to as "Black Lung"); the means to control respirable coal mine dust levels; improved monitoring of respirable coal mine dust levels and the role of the miner in that monitoring; and the adequacy of the current sampling program to determine the actual levels of dust concentrations to which miners are exposed.

On November 14, 1996, the Advisory Committee submitted its report to the Secretary. The report contained numerous recommendations directed toward elimination of coal workers' pneumoconiosis and silicosis. The report concluded that:

* * * although progress towards making mines safer from the health hazards of respirable coal mine dust is substantial, it is not sufficient to achieve the intent of the Coal Act [the predecessor to the Mine Act]. The Committee believes that the elimination of coal workers' pneumoconiosis and silicosis requires a systematic approach incorporating simultaneously:

(1) greater reduction of dust generation and entrainment; (2) greater reduction of ambient concentrations through better dust control plans; (3) improved continuous monitoring and dust sampling programs; (4) greater reduction of personal exposures; (5) enhanced training of miners and mine officials on relevant aspects of coal mine dust control; (6) upgraded medical surveillance programs; (7) more rapid intervention programs; (8) enhanced research on continuing vexing scientific, engineering, and medical issues; and (9) continuous critical evaluation of the coal mine respirable dust standard of 2.0 mg/m³ and the silica standard of 100 µg/m³.

Recommendations of the Advisory Committee address each of these areas in detail.

B. Agency Determination

Section 101(a)(2) of the Mine Act (30 U.S.C. 811(a)(2)) provides that if the Secretary of Labor determines that a rule should be proposed and has appointed an Advisory Committee to provide recommendations regarding the rule, then the Secretary shall publish a proposed rule, or the reasons for his determination not to publish such a rule, within 60 days following the Advisory Committee's recommendations. Accordingly, MSHA, on behalf of the Secretary of Labor, is responding in this Notice to the recommendations of the Advisory Committee.

MSHA has completed a preliminary review of the Advisory Committee's recommendations. There are 20 principal recommendations set out in the Advisory Committee report, which are further subdivided into a total of approximately 100 distinct action items. The recommendations are both extensive and significant, and warrant thorough consideration by the Agency. MSHA is consequently proceeding with an in-depth evaluation of the recommendations, and will respond to them in an orderly fashion. The Agency anticipates that a comprehensive MSHA review of the recommendations will result in a variety of Agency actions. Based on its initial review, MSHA anticipates that a number of the recommendations may be implemented through internal MSHA administrative or policy changes; action on other recommendations may require rulemaking. In some cases, both regulatory and administrative action may be necessary. Many of the recommendations are general in nature and would require further development by MSHA to be suitable for publication as a proposed rule.

MSHA is considering both rulemaking and actions other than rulemaking. MSHA will notify the mining community as it makes determinations regarding implementation of Advisory Committee recommendations.

Dated: January 17, 1997.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

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